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### III. REMARKS

Claims 1-21 have been presented for prosecution and were rejected under 35 USC 102(e) as being anticipated by Radha et al. ("Radha"), US 6,292,512. Applicants have herein amended claims 1, 15 and 19, and have canceled claims 3 and 18. No new matter is believed added.

Applicants respectfully traverse this rejection because Radha fails to teach each and every feature of the claimed invention. For instance, claim 1 recites:

"a system for assigning a variable **modulation** rate to each stream of encoded video data based on the determined priority, *wherein streams determined as having a relatively low priority are assigned a higher modulation rate than streams determined as having a relatively high priority.*"

The Office Action alleges that these features are taught in Figures 2 and 6 of Radha. However, Applicant submits that the Examiner is confusing the concepts of bit rates and modulation rates. A bit rate refers to the rate at which the encoder compresses the data. A modulation rate refers to the rate at which data is transmitted. Radha only deals with calculating bit rates for BL and EL streams, and does not assign modulation rates to the streams.

Moreover, Radha teaches assigning bit rates in the exact opposite manner at which modulation rates are assigned according to the present invention. Namely, Rhadha teaches encoding the more important (higher priority) BL stream at a higher bit rate than the (lower priority) EL stream. As taught by Radha, the BL stream is encoded at a bit rate between the minimum bandwidth  $R_{MIN}$  and the actual bandwidth  $R$  of the channel. It then teaches encoding the less important EL streams at a rate of  $R_{MAX} - R_{BL}$ . (See columns 6-7). Assume an  $R_{MIN}$  of 1.2 Mbits/sec and an  $R_{MAX}$  of 2.0 Mbits/sec, which would represent a realistic bandwidth range. Then, if the BL was encoded at the minimum bit rate  $R_{MIN}$ , a preferred embodiment of Radha

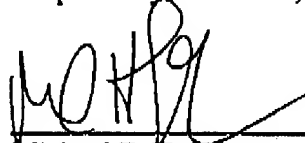
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(see column 36, line 32), then the BL stream would be encoded at 1.2 Mbits/sec and the EL stream would be encoded at 0.8 Mbits/sec. Thus, Radha encodes the higher priority stream at a higher bit rate than the lower priority stream, which is what one would expect in a system that is dealing determining compression bit rates. However, because the present invention is dealing with modulation rates, the opposite result is desired.

This distinction is even more evident in claim 11 where "the plurality of possible modulation rates includes a low modulation rate below the coding bit rate and a high modulation rate above the coding bit rate." Clearly, this feature is neither taught nor suggested by Radha. The remaining dependent claims are believed to be allowable based on the above arguments, as well as for their own additional features.

Applicants respectfully submit that the application is in condition for allowance. Should the Examiner believe that anything further is necessary to place the application in better condition for allowance, the Examiner is requested to contact Applicants' undersigned attorney at the telephone number listed below.

Respectfully submitted,



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1/26/05

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8